

By: Howard

H.B. No. 243

A BILL TO BE ENTITLED

AN ACT

relating to the immunization data included in and excluded from the immunization registry.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 161.007, Health and Safety Code, is amended by amending Subsections (a), (a-2), (b), (b-1), (c), (d), and (e) and adding Subsections (e-1), (l), and (m) to read as follows:

(a) The department, for the primary purpose of establishing and maintaining a single repository of accurate, complete, and current immunization records to be used in aiding, coordinating, and promoting efficient and cost-effective communicable disease prevention and control efforts, shall establish and maintain an immunization registry. The executive commissioner by rule shall develop guidelines to:

(1) protect the confidentiality of patients in accordance with Section 159.002, Occupations Code;

(2) inform the individual or the individual's legally authorized representative about the registry and that registry information may be released under Section 161.00735;

~~(3) [require the written or electronic consent of the individual or the individual's legally authorized representative before any information relating to the individual is included in the registry,~~

1 ~~[(4)]~~ permit the individual or the individual's
2 legally authorized representative to request that the individual's
3 information be removed from ~~[withdraw consent for the individual to~~
4 ~~be included in]~~ the registry;

5 (4) provide opportunities for the individual or the
6 individual's legally authorized representative to request removal
7 at any time, including:

8 (A) at the time of the individual's birth if
9 attended by a health care provider who administers immunizations;

10 (B) each time the individual receives any
11 immunization administered by a health care provider in this state;

12 (C) through electronic submission of a request
13 for removal using a request for removal procedure available on the
14 department's Internet website;

15 (D) through submission to the department of a
16 written request for removal; and

17 (E) following a natural or man-made disaster;
18 ~~[and]~~

19 (5) ensure that an individual or the individual's
20 legally authorized representative is not required to request
21 removal from the registry more than one time and that, after a
22 request for removal is made, the individual's immunization
23 information will not be included in the registry unless the
24 individual or the individual's legally authorized representative
25 submits to the department a written request for inclusion of the
26 individual's information in the registry; and

27 (6) include on each immunization record generated by

1 the registry the procedures for requesting removal from the
2 registry [~~determine the process by which consent is verified,~~
3 ~~including affirmation by a health care provider, birth registrar,~~
4 ~~regional health information exchange, or local immunization~~
5 ~~registry that consent has been obtained]~~.

6 (a-2) [~~The written or electronic consent required by~~
7 ~~Subsection (a)(3) for an individual who is 18 years of age or older~~
8 ~~is required to be obtained only one time and must be received from~~
9 ~~the individual before the information may be released.]~~ An
10 individual's legally authorized representative or the individual,
11 after the individual has attained 18 years of age, may submit a
12 request [~~consent~~] in writing or electronically for the individual's
13 information to be removed from [~~remain in~~] the registry. [~~The~~
14 ~~consent of the representative or individual is valid until the~~
15 ~~individual or the individual's legally authorized representative~~
16 ~~withdraws consent in writing or electronically. The department~~
17 ~~may not include in the registry the immunization information of an~~
18 ~~individual who is 26 years of age or older until written or~~
19 ~~electronic consent has been obtained as provided by this~~
20 ~~subsection.]~~ The department shall coordinate with the Texas
21 Education Agency to distribute materials described in Section
22 [161.0095](#)(a)(2) to students and parents through local school
23 districts.

24 (b) Except as provided by Section [161.0071](#), the
25 immunization registry must contain information on the immunization
26 history that is obtained by the department under:

27 (1) this section of each individual for whom

1 immunization information ~~[consent]~~ has been obtained, unless the
2 individual or the individual's legally authorized representative
3 has requested that the individual's information be removed from the
4 registry in accordance with guidelines adopted under Subsection
5 (a);

6 (2) Section 161.00705 of persons immunized to prepare
7 for or in response to a declared disaster, public health emergency,
8 terrorist attack, hostile military or paramilitary action, or
9 extraordinary law enforcement emergency;

10 (3) Section 161.00706 of first responders or their
11 immediate family members; and

12 (4) Section 161.00735 of persons evacuated or
13 relocated to this state because of a disaster.

14 (b-1) The department shall remove from the registry
15 information for any individual for whom ~~[consent has been~~
16 ~~withdrawn. The department may not retain individually identifiable~~
17 ~~information about any individual.~~

18 ~~[(1) for whom consent has been withdrawn,~~

19 ~~[(2) for whom a consent for continued inclusion in the~~
20 ~~registry following the end of the declared disaster, public health~~
21 ~~emergency, terrorist attack, hostile military or paramilitary~~
22 ~~action, or extraordinary law enforcement emergency has not been~~
23 ~~received under Section 161.00705(f),~~

24 ~~[(3) for whom a request to be removed from the registry~~
25 ~~has been received under Section 161.00706(e),~~

26 ~~[(4) for whom consent for continued inclusion in the~~
27 ~~registry following the end of a disaster has not been received under~~

~~Section 161.00735(f), or~~

~~[(5) for whom]~~ a request to remove information from the registry has been received under this subchapter ~~[Section 161.00735(g)]~~.

(c) A payor that receives data elements from a health care provider who administers an immunization to an individual younger than 18 years of age shall provide the data elements to the department. A payor is required to provide the department with only the data elements the payor receives from a health care provider. A payor that receives data elements from a health care provider who administers an immunization to an individual 18 years of age or older may provide the data elements to the department. The data elements shall be submitted in a format prescribed by the department. ~~[The department shall verify consent before including the reported information in the immunization registry. The department may not retain individually identifiable information about an individual for whom consent cannot be verified.]~~

(d) A health care provider who administers an immunization to an individual younger than 18 years of age shall provide data elements regarding an immunization to the department. A health care provider who administers an immunization to an individual 18 years of age or older may submit data elements regarding an immunization to the department. At the request and with the authorization of the health care provider, the data elements may be submitted through a health information exchange as defined by Section 182.151. The data elements shall be submitted in a format prescribed by the department. A health care provider who

1 administers an immunization to any individual and provides data
2 elements to the department shall notify the individual or the
3 individual's legally authorized representative:

4 (1) that the individual's immunization information
5 will be included in the registry unless removal from the registry is
6 requested in accordance with the guidelines adopted under
7 Subsection (a); and

8 (2) of the procedures for requesting removal from the
9 registry. ~~[The department shall verify consent before including~~
10 ~~the information in the immunization registry. The department may~~
11 ~~not retain individually identifiable information about an~~
12 ~~individual for whom consent cannot be verified.]~~

13 (e) The department shall:

14 (1) make available on the department's Internet
15 website a printable form that states an individual's immunization
16 information will be included in the registry unless removal from
17 the registry is requested and that details the procedures for
18 submitting an electronic or written request for removal from the
19 registry ~~[provide notice to a health care provider that submits an~~
20 ~~immunization history for an individual for whom consent cannot be~~
21 ~~verified. The notice shall contain instructions for obtaining~~
22 ~~consent]~~ in accordance with guidelines adopted under Subsection
23 (a); and

24 (2) make the form described by Subdivision (1)
25 available for distribution to health care providers ~~[and~~
26 ~~resubmitting the immunization history to the department].~~

27 (e-1) A health care provider may use the printable form

1 described by Subsection (e) to provide the notification required
2 under Subsection (d).

3 (l) Registry information may not be used to exclude any
4 individual from the receipt of any service during a natural or
5 man-made disaster unless the service is withheld because of a
6 medical contraindication.

7 (m) The department may not sell registry information to any
8 public or private entity.

9 SECTION 2. Section 161.00705(f), Health and Safety Code, is
10 amended to read as follows:

11 (f) Unless an individual or the individual's legally
12 authorized representative ~~[consents]~~ in writing or electronically
13 requests that ~~[to continued inclusion of]~~ the individual's
14 information be removed from ~~[in]~~ the registry, the department shall
15 include ~~[remove]~~ the immunization records collected under this
16 section in ~~[from]~~ the registry ~~[on expiration of the period~~
17 ~~prescribed under Subsection (e)]~~.

18 SECTION 3. Sections 161.0071(a) and (b), Health and Safety
19 Code, are amended to read as follows:

20 (a) The first time the department receives registry data for
21 an individual ~~[for whom the department has received consent]~~ to be
22 included in the registry, the department shall send notice to the
23 individual or the individual's legally authorized representative
24 disclosing:

25 (1) that providers and payors may be sending the
26 individual's immunization information to the department;

27 (2) the information that is included in the registry;

1 (3) the persons to whom the information may be
2 released under Sections 161.00735(b) and 161.008(d);

3 (4) the purpose and use of the registry;

4 (5) the procedure to exclude an individual from the
5 registry; and

6 (6) the procedure to report a violation if an
7 individual's information is included in the registry after
8 exclusion has been requested ~~[or consent has been withdrawn]~~.

9 (b) ~~The~~ ~~[On discovering that consent to be included in the~~
10 ~~registry has not been granted or has been withdrawn, the]~~
11 department shall exclude ~~[the individual's immunization records]~~
12 from the registry and any other registry-related department record
13 that individually identifies the individual the immunization
14 record of any individual from whom a request for exclusion has been
15 received by the department.

16 SECTION 4. Section 161.0073, Health and Safety Code, is
17 amended by amending Subsection (a) and adding Subsections (e), (f),
18 (g), and (h) to read as follows:

19 (a) Except as provided by this section and Sections 161.007,
20 161.00705, 161.00706, [and] 161.00735, and 161.008, information
21 that individually identifies an individual that is received by the
22 department for the immunization registry is confidential and may be
23 used by the department for registry purposes only.

24 (e) The department may use registry information for
25 internal public health research on approval of the department's
26 institutional review board.

27 (f) The department may release registry information for

external public health research if:

(1) the individual or the individual's legally authorized representative submits a written authorization to the department for release of the individual's registry data;

(2) the department does not disclose individually identifiable information; or

(3) the department's institutional review board approves the release of individually identifiable information subject to Subsection (g).

(g) The department's institutional review board may not approve the release of individually identifiable information for a research proposal unless the proposal includes a provision requiring the proposal's researchers to obtain informed consent from each individual or the individual's legally authorized representative before the department releases the individual's registry data to the researchers.

(h) The executive commissioner shall adopt rules to ensure that the use or release of registry information under this subchapter complies with all state and federal laws relating to the privacy, protection, confidentiality, and transmission of health information, including the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) and rules adopted under that Act.

SECTION 5. Sections [161.00735](#)(c) and (h), Health and Safety Code, are amended to read as follows:

(c) The department may receive immunization information from a health authority of another state or from a local health

1 authority in another state if the department determines that
2 residents of that state have evacuated or relocated to this state in
3 response to a disaster. The department shall include information
4 received under this subsection in the registry. [~~Notwithstanding~~
5 ~~Section 161.007, the department is not required to obtain written~~
6 ~~consent for the inclusion in the registry of information received~~
7 ~~under this subsection.~~]

8 (h) The executive commissioner shall make every effort to
9 enter into a memorandum of agreement with each state to which
10 residents of this state are likely to evacuate in a disaster on:

11 (1) the release to and use by [~~of registry information~~
12 ~~under this section to~~] the appropriate health authority or local
13 health authority of that state of registry information under this
14 section[~~, including the length of time the information may be~~
15 ~~retained by that state~~]; and

16 (2) the receipt and use of information submitted by
17 the health authority or local health authority of that state for
18 inclusion in the registry under this section.

19 SECTION 6. Sections 161.008(c) and (e), Health and Safety
20 Code, are amended to read as follows:

21 (c) The department may obtain the data constituting an
22 immunization record for an individual from a public health
23 district, a local health department, the individual or the
24 individual's legally authorized representative, a physician to the
25 individual, a payor, or any health care provider licensed or
26 otherwise authorized to administer vaccines. [~~The department shall~~
27 ~~verify consent before including the reported information in the~~

1 ~~immunization registry. The department may not retain individually~~
2 ~~identifiable information about an individual for whom consent~~
3 ~~cannot be verified.]~~

4 (e) An individual or the individual's legally authorized
5 representative may obtain and on request to the department shall be
6 provided with all individually identifiable immunization registry
7 information concerning the individual and information on the
8 procedure for requesting removal from the registry.

9 SECTION 7. Section 161.0095(a), Health and Safety Code, is
10 amended to read as follows:

11 (a) The department shall develop:

12 (1) continuing education programs for health care
13 providers relating to immunizations and the vaccines for children
14 program operated by the department under authority of 42 U.S.C.
15 Section 1396s; and

16 (2) educational information, for health care
17 providers, health care clinics, hospitals, and any other health
18 care facility that provides health care to children 14 to 18 years
19 of age, relating to the immunization registry and the option for an
20 individual or the individual's legally authorized representative
21 to request removal ~~[who is 18 years of age or older to consent to~~
22 ~~submission and retention]~~ of the individual's information from ~~[in]~~
23 the immunization registry.

24 SECTION 8. Section 161.0107(c), Health and Safety Code, is
25 amended to read as follows:

26 (c) The executive commissioner by rule shall specify:

27 (1) the fields necessary to populate the immunization

1 registry[, ~~including a field that indicates the patient's consent~~
2 ~~to be listed in the immunization registry has been obtained~~]; and

3 (2) the data standards that must be used for
4 electronic submission of immunization information.

5 SECTION 9. The following provisions of the Health and
6 Safety Code are repealed:

7 (1) Sections 161.007(a-1), (a-3), (a-4), (a-5), and
8 (a-6);

9 (2) Sections 161.00705(e) and (h); and

10 (3) Sections 161.00735(e) and (f).

11 SECTION 10. (a) The changes in law made by this Act to
12 Subchapter A, Chapter 161, Health and Safety Code, apply to
13 immunization information received by the Department of State Health
14 Services before, on, or after January 1, 2019. An individual whose
15 immunization information was included immediately before January
16 1, 2019, in the immunization registry established under Subchapter
17 A, Chapter 161, Health and Safety Code, is subject to the changes in
18 law made by this Act to that subchapter, including the procedures
19 established by that subchapter as amended by this Act.

20 (b) The changes in law made by this Act do not authorize the
21 Department of State Health Services to include in the immunization
22 registry established under Subchapter A, Chapter 161, Health and
23 Safety Code, immunization information of an individual who is 18
24 years of age or older and whose immunization information was not
25 included in the registry on or before January 1, 2019, unless the
26 department receives immunization data from a health care provider
27 who:

1 (1) administers an immunization to the individual
2 after that date and elects to provide the individual's immunization
3 information to the department; and

4 (2) notifies the individual before submission of the
5 information to the department:

6 (A) that the health care provider is providing
7 the information to the department for inclusion in the registry;

8 (B) that the information will remain in the
9 registry until removal is requested by the individual or the
10 individual's legally authorized representative; and

11 (C) of the procedures for requesting removal from
12 the registry under Subchapter A, Chapter 161, Health and Safety
13 Code, as amended by this Act.

14 SECTION 11. (a) As soon as practicable after the effective
15 date of this section, the Department of State Health Services shall
16 conduct a public awareness campaign to educate health care
17 providers, parents, payors, schools, and the public about the
18 changes in law made by this Act.

19 (b) As soon as practicable after the effective date of this
20 section, the executive commissioner of the Health and Human
21 Services Commission shall adopt the rules required by Section
22 161.0073(h), Health and Safety Code, as added by this Act.

23 SECTION 12. (a) Except as provided by Subsection (b) of this
24 section, this Act takes effect January 1, 2019.

25 (b) Section 11 of this Act takes effect September 1, 2017.